

U.S. Patent Application Serial No. 10/519,879  
Reply to Office Action of June 18, 2007

### REMARKS

Applicants have received and reviewed an Office Action dated June 18, 2007. By way of response, Applicants have withdrawn claims 8-11, and amended claims 1-9 and 11.

Amendments to claims 2-9 and 11 are for clarification only. The amendment of claim 1 is supported in the specification at least at page 1, line 4. No new matter is presented. Claims 1-7 are pending. Applicants submit that the pending claims are supported by the specification.

For the reasons given below, Applicants submit that the amended and newly presented claims are in condition for allowance and notification to that effect is earnestly solicited.

### Restriction Requirement

The Examiner has required restriction between product and process claims. Where Applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined. MPEP § 806.05(f).

In accordance with the above, and order to retain the right to rejoinder, Applicants have amended the withdrawn claims to require the limitations of the product claims. Applicants thereby reserve the right of rejoinder of claims 8-11.

### Objections to the Claims

Claims 1, 2, 5 and 6 were objected to due to minor informalities. Applicants have amended claims 1, 2, 5 and 6 to correct these informalities. Accordingly, Applicants request withdrawal of the objection.

### 35 U.S.C. § 112, ¶ 2

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants respectfully traverse the rejection.

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Without acquiescing to the rejection, and solely to further prosecution of the application, Applicants have amended claims 1-7 to recite "ayurvedic composition" and further have amended claim 1 to recite that component b) is "extracts of *Allium Sativum* Linn and *Zingiber Officinale* Rose Linn."

Accordingly, Applicants respectfully submit that the amended and newly presented claims fully comply with 35 U.S.C. § 112, second paragraph and withdrawal of this rejection is respectfully requested.

35 U.S.C. § 112, ¶ 1

Claims 1-7 were rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. Applicants respectfully traverse the rejection.

Without acquiescing to the rejection, and solely to further prosecution of the application, Applicants have amended claim 1 to recite that the nut oil extract of component a) is obtained from the genus *anacardium* and *semicarpous*. Species *Semecarpous Anacardium* Linn and *Anacardium Occidentale* Linn are within the class of these genuses. These genuses belong to the family *Anacardiaceae* and are enabled at pages 3-5 of the specification.

Additionally, without acquiescing to the rejection, and solely to further prosecution of the application, Applicants have amended claim 1 to remove the recitation of "prophylactic".

Accordingly, Applicants respectfully submit that the amended and newly presented claims fully comply with 35 U.S.C. § 112, first paragraph and withdrawal of this rejection is respectfully requested.

35 U.S.C. § 103(a)

Claims 1-7 were rejected under 35 U.S.C. § 103(a) over Shimomura et al., JP 04089419, in view of Matsutani et al., U.S. Patent No. 6,444,651 and Rosenstiel, U.S. Patent No. 6,607,756. Applicants respectfully traverse the rejection.

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Shimomura et al. disclose a cosmetic containing cardol that is safe, has beautifying properties, and has tyrosinase inhibiting activity. The cardol is extracted from the cashew nut shells using hexane. The cardol is employed at 0.001 weight percent to 5 weight percent of the cosmetic. There is no teaching or suggestion in Shimomura et al. of the claimed combination of nut and herbal extracts.

The Examiner asserts that Matsutani et al. disclose garlic having antimicrobial activity. Applicants disagree. Matsutani et al. teaches antimicrobial agents in which a major component is the DNA extracted from prokaryotic microorganisms (see, e.g. column 1, lines 46-48). The only mention of garlic in Matsutani et al. is in the background section, where it is mentioned as having antimicrobial activity. There is no disclosure of garlic or garlic extracts elsewhere in the specification. There is no teaching or suggestion in Matsutani et al. of any combination of nut and herbal extracts.

Rosenstiel teaches ginger (*Zingiber officinale*) oil as one component in an herbal composition. The composition further contains cayenne extract (capsicum), myrrh, frankincense, cinnamon, saffron and a carrier oil. Ginger is employed for its stimulating properties (column 3, lines 39-40) and Rosenstiel notes that ginger also has anti-oxidant, antispasmodic, diaphoretic, anti-microbial, and rubefacient properties and contains vitamins A, B-complex and C (column 3, lines 36-45). There is no teaching or suggestion in Rosenstiel of any combination of nut and herbal extracts.

The combination of cited references does not result in Applicants' invention. The combination would result in a cosmetic containing 0.001 weight percent to 5 weight percent cardol extracted from cashew nut shells, garlic extract, and ginger oil as well as cayenne extract, myrrh, frankincense, cinnamon, saffron and a carrier oil.

This is not Applicants' invention. The claimed invention is a nut oil extract, with minimal or no toxins and irritants, obtained from the family *Anacardiaceae* from the genus *anacardium* and *semicarpous* (cashew) combined with extracts of *Allium Sativum* Linn (garlic) and *Zingiber Officinale* Rosc Linn (ginger).

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The claimed invention contains nut extract wherein toxins and irritants have been removed. There is no teaching of providing only a cardol, as is taught by Shimomura et al. The extract taught by Shimomura et al. is a hexane extract of cashew nut shells. In sharp contrast, the extract of the claimed invention is obtained by boiling detoxified cashew nuts in clarified butter until the moisture is removed (page 2, lines 7-9). One of ordinary skill in the art would expect that different extracted chemicals would be obtained by using different starting materials (shells vs. detoxified nuts). One of ordinary skill in the art would also expect that different extracted chemicals would be obtained by using hexane vs. clarified butter. There is no teaching or suggestion in Shimomura et al. to provide an extract from nuts, or further from detoxified nuts. There is no teaching or suggestion in Shimomura et al. to provide an extract by employing clarified butter as the extractant.

There is no teaching or suggestion in any of the cited references that would lead one of skill in the art to combine the extracts of detoxified cashew nuts, garlic, and ginger. The cited references, taken separately, do not suggest the usefulness of the combined extracts. The combination of cited references do not suggest any benefit or advantage from the combination of disclosed extracts.

Accordingly, based on the foregoing differences, Applicants respectfully submit that the cited references do not render the presently claimed invention obvious, and withdrawal of this rejection is respectfully requested.

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Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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